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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LAWRENCE DAWKINS,

Plaintiff,

- against -

PAUL GONYEA et al.,

Defendants.
-----X

08 Civ. 2194 (VM)

ORDER

VICTOR MARRERO, United States District Judge.

Pro se plaintiff Lawrence Dawkins ("Dawkins") brought this action pursuant to 42 U.S.C. § 1983 ("§ 1983") against defendants Deputy Superintendent of Security Paul Gonyea ("Gonyea"), Lieutenant Steven Katz ("Katz"), and Superintendent Raymond Cunningham ("Cunningham") (collectively, "Defendants"),¹ all of whom at the relevant times in this action were officials of the New York State Woodbourne Correctional Facility ("Woodbourne"). Dawkins alleges violations of his rights under the Eighth and Fourteenth Amendments of the United State Constitution. Dawkins seeks compensatory relief and an order of declaration for these alleged violations.² Defendants now move to dismiss

¹ After filing his complaint, Dawkins dismissed Cunningham from this action. (See Reply to Defendants' Motion to Dismiss, dated December 11, 2008, ¶ 23.)

² The Court need not discuss Dawkins's request for an order declaring that Defendants acted in violation of the United States Constitution. A finding regarding Dawkins's § 1983 claim will include any violations by prison officials of Dawkins's constitutional rights. See Pitchell v. Callan, 13 F.3d 545, 547 (2d Cir. 1994) (finding that to succeed on a § 1983 claim, a plaintiff must show a deprivation of "rights, privileges, or immunities secured by the Constitution or laws of the United States" (citation omitted)).

the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). Defendants' motion to dismiss is GRANTED, and Dawkins is granted leave to replead.

The findings, reasoning, and conclusions for the Court's ruling will be set forth in a subsequent decision and order. Accordingly, it is hereby

ORDERED that the motion of defendants Paul Gonyea, Steven Katz, and Raymond Cunningham to dismiss the complaint is GRANTED; and it is further

ORDERED that plaintiff Lawrence Dawkins shall have leave to file an amended complaint within sixty (60) days from the issuance of the Court's subsequent decision and order.

The Clerk of the Court is directed to withdraw any pending motions and to close this case.

SO ORDERED:

Dated: New York, New York
31 July 2009

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

VICTOR MARRERO
U.S.D.J.